

MESSAGE NO: 9203204 MESSAGE DATE: 07/22/2009

MESSAGE STATUS: Active CATEGORY: Antidumping
TYPE: LIQ-Liquidation PUBLIC ☒ NON-PUBLIC ☐
SUB-TYPE:

FR CITE: FR FR CITE DATE:

REFERENCE 5356202
MESSAGE #
(s):

CASE #(s): A-570-851

EFFECTIVE DATE: COURT CASE #:

PERIOD OF REVIEW: TO

PERIOD COVERED: 02/01/2003 TO 01/31/2004

Notice of Lifting of Suspension Date:

TO: { Directors Of Field Operations, Port Directors }

FROM: { Director AD/CVD & Revenue Policy & Programs }

RE: LIQUIDATION INSTR FOR CERTAIN PRESERVED MUSHROOMS FROM CHINA
EXPORTED BY GERBER FOOD (YUNNAN) CO., LTD OR GUANGXI YULIN ORIENTAL FOOD
(A-570-851-000/004/020)

MESSAGE NO: 9203204

DATE: 07 22 2009

CATEGORY: ADA

TYPE: LIQ

REFERENCE: 5356202

REFERENCE DATE: 12 22 2005

CASES: A - 570 - 851

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PERIOD COVERED: 02 01 2003 TO 01 31 2004

LIQ SUSPENSION DATE:

TO: DIRECTORS OF FIELD OPERATIONS

PORT DIRECTORS

FROM: DIRECTOR, SPECIAL ENFORCEMENT

RE: LIQUIDATION INSTR FOR CERTAIN PRESERVED MUSHROOMS FROM
CHINA EXPORTED BY GERBER FOOD (YUNNAN) CO., LTD OR
GUANGXI YULIN ORIENTAL FOOD (A-570-851-000/004/020)

1. ON 03/12/2009, THE U.S. COURT OF INTERNATIONAL TRADE (CIT)
ISSUED A FINAL DECISION IN THE CASE OF GERBER FOOD (YUNNAN) CO.
LTD., GREEN FRESH (ZHANGZHOU) CO., LTD. AND GUANGXI YULIN
ORIENTAL FOOD (GUANGXI YULIN) CO., LTD. V. UNITED STATES, COURT
NO. 05-00570. AS A RESULT OF THIS DECISION, THE INJUNCTION TO
WHICH MESSAGE 5356202 REFERS ENJOINING LIQUIDATION OF ENTRIES
WHICH ARE SUBJECT TO THE ANTIDUMPING DUTY ORDER ON CERTAIN
PRESERVED MUSHROOMS FROM THE PEOPLE'S REPUBLIC OF CHINA FOR

PERIOD 02/01/2003 THROUGH 01/31/2004 EXPORTED BY GERBER FOOD (YUNNAN) CO., LTD., OR GUANGXI YULIN ORIENTAL FOOD DISSOLVED ON 05/11/2009.

2. FOR ALL SHIPMENTS OF CERTAIN PRESERVED MUSHROOMS FROM THE PEOPLE'S REPUBLIC OF CHINA EXPORTED BY GERBER FOOD (YUNNAN) CO., LTD., OR GUANGXI YULIN ORIENTAL FOOD AND ENTERED, OR WITHDRAWN FROM WAREHOUSE, FOR CONSUMPTION DURING THE PERIOD 02/01/2003 THROUGH 01/31/2004, ASSESS ANTIDUMPING LIABILITY OF 198.63 PERCENT OF THE ENTERED VALUE.

3. AS A RESULT OF COMMERCE'S CLARIFICATION OF ITS ASSESSMENT REGULATION ON MAY 6, 2003 (68 FR 23954), FOR ALL SHIPMENTS OF CERTAIN PRESERVED MUSHROOMS FROM THE PEOPLE'S REPUBLIC OF CHINA, PRODUCED BY GERBER FOOD (YUNNAN) CO., LTD., OR GUANGXI YULIN ORIENTAL FOOD ENTERED, OR WITHDRAWN FROM WAREHOUSE, FOR CONSUMPTION DURING THE PERIOD 02/01/2003 THROUGH 01/31/2004, ENTERED UNDER CASE NUMBERS A-570-851-004 OR A-570-851-020, AND NOT COVERED BY PARAGRAPH ONE, ASSESS ANTIDUMPING DUTIES AT THE

ALL-OTHERS RATE IN EFFECT ON THE DATE OF ENTRY. THE ALL-OTHERS RATE FOR CERTAIN PRESERVED MUSHROOMS FROM THE PEOPLE'S REPUBLIC OF CHINA IS 198.63 PERCENT.

4. THESE INSTRUCTIONS CONSTITUTE NOTICE OF THE LIFTING OF SUSPENSION OF LIQUIDATION OF ENTRIES OF SUBJECT MERCHANDISE DURING THE PERIOD 02/01/2003 THROUGH 01/31/2004. FOR ALL OTHER SHIPMENTS OF CERTAIN PRESERVED MUSHROOMS FROM THE PEOPLE'S REPUBLIC OF CHINA YOU SHALL, UNLESS OTHERWISE INSTRUCTED, CONTINUE TO COLLECT CASH DEPOSITS OF ESTIMATED ANTIDUMPING DUTIES FOR THE MERCHANDISE AT THE CURRENT RATES.

5. THERE ARE NO INJUNCTIONS APPLICABLE TO THE ENTRIES COVERED BY THIS INSTRUCTION.

6. THE ASSESSMENT OF ANTIDUMPING DUTIES BY CBP ON SHIPMENTS OR ENTRIES OF THIS MERCHANDISE IS SUBJECT TO THE PROVISIONS OF SECTION 778 OF THE TARIFF ACT OF 1930. SECTION 778 REQUIRES

THAT CBP PAY INTEREST ON OVERPAYMENTS, OR ASSESS INTEREST ON UNDERPAYMENTS, OF THE REQUIRED AMOUNTS DEPOSITED AS ESTIMATED ANTIDUMPING DUTIES. THE INTEREST PROVISIONS ARE NOT APPLICABLE TO CASH OR BONDS POSTED AS ESTIMATED ANTIDUMPING DUTIES BEFORE THE DATE OF PUBLICATION OF THE ANTIDUMPING DUTY ORDER. INTEREST SHALL BE CALCULATED FROM THE DATE PAYMENT OF ESTIMATED ANTIDUMPING DUTIES IS REQUIRED THROUGH THE DATE OF LIQUIDATION. THE RATE AT WHICH SUCH INTEREST IS PAYABLE IS THE RATE IN EFFECT UNDER SECTION 6621 OF THE INTERNAL REVENUE CODE OF 1954 FOR SUCH PERIOD.

7. UPON ASSESSMENT OF ANTIDUMPING DUTIES, CBP SHOULD REQUIRE THAT THE IMPORTER PROVIDE A REIMBURSEMENT STATEMENT AS DESCRIBED IN SECTION 351.402(f)(2) OF COMMERCE'S REGULATIONS. THE IMPORTER SHOULD PROVIDE THE REIMBURSEMENT STATEMENT PRIOR TO LIQUIDATION OF THE ENTRY. IF THE IMPORTER CERTIFIES THAT IT HAS AN AGREEMENT WITH THE MANUFACTURER, PRODUCER, SELLER, OR EXPORTER, TO BE REIMBURSED ANTIDUMPING DUTIES, CBP SHOULD DOUBLE THE ANTIDUMPING DUTIES IN ACCORDANCE WITH THE ABOVE-REFERENCED REGULATION. ADDITIONALLY, IF THE IMPORTER DOES NOT PROVIDE THE REIMBURSEMENT STATEMENT PRIOR TO LIQUIDATION, CBP SHOULD PRESUME REIMBURSEMENT AND DOUBLE THE ANTIDUMPING DUTIES DUE.

8. IF THERE ARE ANY QUESTIONS REGARDING THIS MATTER BY CBP OFFICERS, THE IMPORTING PUBLIC OR INTERESTED PARTIES, PLEASE CONTACT DAVINA HASHMI OR RON TRENTAM AT THE OFFICE OF AD/CVD

OPERATIONS, IMPORT ADMINISTRATION, INTERNATIONAL TRADE ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE, AT (202) 482-0984 OR (202) 482-3577 RESPECTIVELY (GENERATED BY O9:TD).

9. THERE ARE NO RESTRICTIONS ON THE RELEASE OF THIS INFORMATION.

CHRISTINE M. FURGASON

Company Details

*Party Indicator Value:

I = Importer, M = Manufacturer, E = Exporter, S = Sold To Party